

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE NATIONAL PRESCRIPTION OPIATE
LITIGATION

This document relates to:

ALL CASES

MDL No. 2804

Case No. 1:17-md-2804

Judge Dan Aaron Polster

**SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFFS EXECUTIVE
COMMITTEE'S AND PLAINTIFFS SUMMIT AND CUYAHOGA
COUNTIES' AGREED MOTION FOR PAYMENT OF
SUMMIT/CUYAHOGA HOLDBACK INTO MDL NO. 2804 COMMON
BENEFIT FUND AND FOR REIMBURSEMENT TO PEC OF CT 1
BELLWETHER COSTS**

In its motion, the PEC stated that it contemplates seeking a common benefit order to require that any future settlement or judgment be assessed a percentage of the settlement or judgment for payment of common benefit fees and common benefit litigation expenses to compensate counsel who performed common benefit work as set forth and authorized in the “Order Regarding Plaintiff Attorneys’ Fees and Expenses” (Doc. 358). The PEC clarifies its motion as follows:

1. Except as clarified below, with respect to future settlements and judgments, the PEC will seek an order requiring an assessment of up to and no greater than 7.5% of the gross recovery (for fees and expenses) of the settlement or judgment, subject to the Court’s approval. The PEC acknowledges the Court may order that there may be circumstances of a particular settlement or judgment where an assessment of less than 7.5% may be appropriate.

2. The PEC clarifies that, in any settlement which provides for a separate fund for full payment of common benefit fees and common benefit litigation expense reimbursement, that a separate assessment charging a percentage of the settlement for same will **not** be appropriate, except with respect to plaintiffs who opt out of that settlement.
3. The PEC clarifies that no common benefit fee or litigation expense reimbursement will be charged against any settlement proceeds or judgment paid to any State Attorney General, or to any state court plaintiff that is not subject to the Court's jurisdiction (unless that plaintiff or counsel executed a participation agreement), consistent with the Court's prior Order (Doc # 358).

The PEC clarifies that the common benefit fee assessment (totaling \$14.2 Million) charged to Summit County and Cuyahoga County will be paid to the PEC MDL Common Benefit Fee Fund subject to further order of the Court; and the common benefit litigation reimbursement (totaling \$7.1 Million) will be paid to the PEC Opioid MDL Capital Account.

Dated: June 22, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2021, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF system.

/s/Peter H. Weinberger

Peter H. Weinberger